

Honorable Thomas S. Zilly



05-CR-00388-EXH

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

ST. PAUL FIRE AND MARINE
INSURANCE COMPANY, a Minnesota
corporation and ST. PAUL GUARDIAN
INSURANCE COMPANY, a Minnesota
corporation

Plaintiff,

v.

HEBERT CONSTRUCTION, INC., a
corporation; MEADOW VALLEY, LLC, a
Washington limited liability company;
ROGER and SHELLY HEBERT,
individually and the marital community
thereof; HENRY and KAREN HEBERT,
individually and the marital community
thereof; ANDRZEJ and ROMA LAWSKI,
individually and marital community thereof;
JAMES and ANNE KOSSERT, individually
and the marital community thereof; and
ADMIRAL INSURANCE COMPANY, a
Delaware corporation

Defendant.

NO. C05-0388TJZ

FINAL JUDGMENT IN CIVIL
CASE ON JURY VERDICT AND
PRE-TRIAL AND POST-TRIAL
RULINGS

JUDGMENT SUMMARY

1. Judgment Creditor: Meadow Valley Condominium Owners
Association, as assignee of Hebert
Construction, Inc., et al.
2. Attorneys for Judgment Creditor: Kenneth Hobbs
Stafford Frey Cooper
601 Union Street, Suite 3100
Seattle, WA 98101-1374

FINAL JUDGMENT IN A CIVIL CASE - 1

C05-0388TJZ

10303-026664 76772

STAFFORD FREY COOPER

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- 1 3. Judgment Debtors: St. Paul Fire and Marine Insurance Company
and St. Paul Guardian Insurance Company
- 2
- 3 4. Attorneys for Judgment Debtors: Stephanie Andersen
Gordon and Polscer, LLC
1000 Second Avenue, Suite 1500
4 Seattle, WA 98104-1046
- 5 6. Recovery Amounts
- | | |
|--|---------------|
| 6 a. Property Damage | \$ 322,032.45 |
| b. Underlying Litigation Attorney's Fee Award | 1,600,000.00 |
| c. Interest on Recovery Amounts Prior to Judgment | 372,137.06 |
| 7 d. Attorney Fees to Establish Insurance Coverage | 394,600.00 |
| TOTAL | 2,688,769.50 |
- 8
- 9 5. Interest After Entry of Judgment: At federal judgment rate on all recovery
amounts ~~at~~ 4.99 %.

10 ORDER OF JUDGMENT

11 This matter was tried to a jury during September 2006. By Special Verdict
12 (9/28/06 Special Verdict, Docket No. 193), the jury determined the amount of property
13 damage that happened during the effective dates of the insurance policy issued by St.
14 Paul Guardian Insurance Company was \$322,032.45. Although the court directed the
15 jury to also determine the amount of property damage that happened during the
16 effective dates of the insurance policy issued by St. Paul Fire and Marine Insurance
17 Company, the court dismissed claims related to that policy (9/22/06 Report of Trial
18 Proceedings and 12/13/06 Minute Entry, Docket No. 233). The jury determined there
19 was no bad faith and no violation of the Consumer Protection Act, and therefore did not
20 determine damages related to those claims.

21 Before trial the court granted summary judgment to the judgment creditor that the
22 underlying litigation attorney's fee award of \$1,600,000 was a "cost taxed" under the
23

FINAL JUDGMENT IN A CIVIL CASE - 2

C05-0388TJZ

10383-026964 76772

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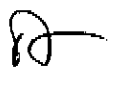
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1 "additional payment" provisions of the St. Paul Guardian and St. Paul Fire policies
 2 (9/7/06 Summary Judgment Order, Docket No. 141). After trial, the court ruled the
 3 "additional payment" provisions of the policies also provide coverage for interest that
 4 has accrued from September 19, 2005, the date of entry of judgment in the underlying
 5 litigation, on such property damage and costs taxed as are covered under each policy
 6 (12/13/06 Minute Entry, Docket No. 233). Interest reflected in the judgment summary is
 7 calculated based on the sum of property damage (\$322,032.45) plus the underlying
 8 litigation attorney's fee award (\$1,600,000) times 12% per annum for the 19 months and
 9 11 days that have elapsed between 9/19/05 through 5/1/07.

10 The court determined the judgment creditor is entitled to recover attorney fees
 11 incurred to establish insurance coverage pursuant to Olympic Steamship Company Inc.
 12 v. Centennial Insurance Company, 117 Wn.2d 37, 811 P.2d 673 (1991). After allocation
 13 between successful and unsuccessful claims, the court determined the amount of
 14 reasonable attorney fees was \$394,600 (12/13/06 Minute Entry, Docket No. 233,
 15 2/15/07 Order, Docket No. 250).

16 The judgment creditor is entitled to continuing post-judgment interest on all
 17 recovery amounts shown in the judgment summary, from the date of entry of the
 18 judgment until paid, at the federal judgment rate in effect on the date of entry. *4.99%* 

19 The portion of the judgment for property damage (\$322,032.45) plus pre-
 20 judgment interest on property damage (\$62,350.74) is solely the obligation of St. Paul
 21 Guardian Insurance Company. All other amounts are the joint and several obligation of
 22 both judgment debtors.
 23

FINAL JUDGMENT IN A CIVIL CASE - 3

C05-0388TJZ

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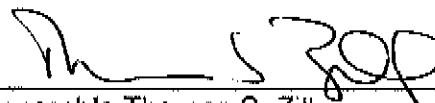
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1 All other claims by and between these parties and all other parties have been
2 resolved pursuant to one or more settlements, and such claims are therefore dismissed
3 with prejudice and without costs taxed against any party.

4 DATED this 1st day of May, 2007.

5
6 
7 Honorable Thomas S. Zilly
U.S. District Judge

8 Prepared and Presented By:

9 STAFFORD FREY COOPER

10 By: /s/ Kenneth F. Hobbs
11 Kenneth Hobbs, WSBA No. 15309

12 Attorneys for Judgment Creditor
13 601 Union Street, Suite 601
Seattle, Washington 98101
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23 FINAL JUDGMENT IN A CIVIL CASE - 4

C05-0388TJZ

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